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### **Fixed-Term Contract for Project Work is for Genuine Purpose**

*Enis Arnaut v Nova Beta (M) Energy Sdn Bhd*  
(Industrial Court Award No 416 of 2020)

The company's majority shareholder was granted exclusive rights by the Sabah State Government to undertake the development of all small hydropower plant (**SHP**) projects in the state.

Subsequently, the company was engaged to provide consultancy services to the majority shareholder on SHP development. Due to his sound technical knowledge of SHP development, the claimant was employed as an Executive Director on a fixed-term contract (**FTC**) of two years. The claimant was also the husband of the company's minority shareholder.

The exclusive rights granted to the majority shareholder were subsequently revoked. This led to the decision to not renew the claimant's FTC.

The Industrial Court dismissed his claim that the expiry of his FTC was a dismissal without just cause or excuse, and held that:

- (a) The claimant was appointed on a genuine FTC as seen from the following:
  - (i) His appointment was for a period of two years which was agreed and accepted by both parties;
  - (ii) The minority shareholder (his wife) had made a recommendation to the board of directors to extend the claimant's FTC;
  - (iii) Six months before his FTC expired, he was informed by the Board that he would eventually become a non-executive director;

- (iv) Upon receipt of the notification on the expiry of his FTC, the claimant never suggested that his contract was a permanent contract dressed up as an FTC; and
  - (v) Upon revocation of the exclusive rights, the claimant had taken the step to not renew his subordinates' FTCs. The company's decision not to renew the claimant's FTC was the very step taken by the claimant in relation to his subordinates.
- (b) The claimant was not dismissed. His employment ceased following the expiration of his FTC due to the revocation of the exclusive rights.
- (c) As the claimant had failed to establish that he was dismissed by the company, the question of whether the dismissal was with just cause or excuse would not arise.

The company was represented by senior associate Amardeep Singh Toor and supervised by partner Lim Heng Seng of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court award may be viewed [here](#).

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If you have any queries, please contact the author or his team partner [Lim Heng Seng](#) ([lhs@lh-ag.com](mailto:lhs@lh-ag.com)).

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